

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACK SMITH,

Petitioner,

Case No. 12-11527

MARY BERGHUIS,

HON. AVERN COHN

Respondent.

**ORDER DENYING PETITIONER'S "MOTION TO FAST TRACK CASE" (Doc. 19),
"MOTION TO HAVE ALL CHARGES EXPUNGED OFF MY RECORD" (Doc. 20),
AND "MOTION FOR RELEASE ON RECOGNIZANCE OR SURETY 2255
PROCEEDING" (Doc. 22)**

I.

Petitioner Jack Smith, a state inmate, has filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254. (Doc. 1) Petitioner alleges that he is actually innocent and that his counsel was ineffective with respect to his Jackson Circuit Court convictions for arson, manufacturing explosives, and assault and battery. Respondent has filed a response (Doc. 17).

Before the Court are Petitioner's "Motion to Fast Track Case" (Doc. 19), "Motion to Have All Charges Expunged off My Record" (Doc. 20), and "Motion for Release on Recognizance or Surety 2255 Proceeding" (Doc. 22). For the reasons that follow, the motions are DENIED.

II.

All three of Petitioner's motions hinge on the allegation that Respondent has admitted in its response to the petition that Petitioner is actually innocent. As a result, Petitioner claims he is entitled to immediate consideration, expungement of his criminal

record, and immediate release. Respondent, however, has made no such concession. Respondent's response to the petition states: "[E]ven assuming that Petitioner's claim that the entire case against him was fabricated is cognizable in habeas, he is still not entitled to any relief." Response (Doc. 17) at 6. Respondent goes on to argue that Petitioner has not demonstrated his actual innocence. Thus, Respondent has not conceded that Petitioner is innocent. As such, Petitioner is not entitled to the relief he requests in his motions.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: February 19, 2013

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, February 19, 2013, by electronic and/or ordinary mail.

S/Sakne Chami
Case Manager, (313) 234-5160